

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOUISE ROGERS TATE,

INDEX NO. 07 CV 5885 (PKC)

Plaintiff(s),

NOTICE OF APPEARANCE,
ANSWER,
CROSS-COMPLAINT,
AND

-against-

DISCOVERY DEMANDS

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE,
ARISTISIDIS SHISMEROS, WAI KWOK HA,
GOLAM MORTUJA, FRED WEINGARTEN, and HILTON
HOTELS CORPORATION,

Defendant(s).

-----X

S I R S:

PLEASE TAKE NOTICE that the undersigned, Gerber & Gerber, PLLC, are retained as attorneys for the defendant(s), FRED WEINGARTEN and GOLAM MORTUJA, and demand that you serve a copy of all papers and pleading upon the undersigned at the office and post office address set forth below.

PLEASE TAKE FURTHER NOTICE, that the Defendant(s) any as and for their Answer.

FIRST: Denies each and every allegation set forth in paragraphs of the complaint, designated as follows: Paragraphs 8, 16, 23, 30, 31, 32, 33 [refer all questions of the law to the court], 34 [refer all questions of the law to the court], 35, 36 and 37.

SECOND: Denies any knowledge or information sufficient to form a belief as to any of the allegations set forth in the paragraphs of the

complaint designated as follows: Paragraphs 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29.

AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

That by reason of all of the provisions of Article 51 of the New York Comprehensive Motor Vehicle Insurance Reparations Act, Sections 5101 to 5108, this Court lacks jurisdiction over the subject matter of this action and plaintiff(s) is expressly prohibited by the above mentioned law from maintaining this action. Plaintiff has not suffered a serious injury.

AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

Pursuant to the N.Y. C.P.L.R. Section 1412 applicable herein, any damages sustained by the plaintiff(s) were caused by the culpable conduct of the plaintiff(s), including contributory negligence or assumption of the risk, and not by the culpable conduct or negligence of the answering defendant(s).

AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

That if the plaintiff suffered injury and damages in the manner and at the time and place alleged in the complaint, which this defendant

denies and it be determined that said injury and damages were caused and contributed to by reason of the plaintiff's failure to use or properly use seat belts or restraining devices, pursuant to the authority of SPIER V. BARKER, 35 N.Y.2d 444, 363 N.Y.S.2d 916, defendant hereby pleads said failure in mitigation of damages.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT, AFFIRMATIVE DEFENSE

Any injury or damages sustained by the plaintiff herein were caused in whole or in part by the culpable conduct of co-defendant's or parties other than this answering defendant.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT, AFFIRMATIVE DEFENSE

Plaintiff fails to state a cause of action.

CROSS-COMPLAINT

PURSUANT TO FALP Rule 12 & 13, A CROSS-COMPLAINT BY DEFENDANT(S) FRED WEINGARTEN and GOLAM MORTUJA AGAINST CO-DEFENDANT(S) NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA and HILTON HOTELS CORPORATION.

1. It is alleged in the original complaint that the damages sustained by each plaintiff were the result of the negligence of the defendants. The cross complaining defendant begs leave to refer to the original complaint at the time of the trial.

2. If any plaintiff was caused to sustain the damages as alleged in the complaint, said damages will have been sustained by reason of the negligence of the co-defendant(s) NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA and HILTON HOTELS CORPORATION.

3. If the cross-complaining defendant is also found negligent, then this defendant will be entitled to be indemnified, in whole or in part, by the aforesaid co-defendants for the portion of the plaintiff's damages which were caused by the negligent co-defendants, together with all attorneys fees, costs of investigation and disbursements.

WHEREFORE, the defendant(s) FRED WEINGARTEN and GOLAM MORTUJA demands judgment against the plaintiff, dismissing the complaint herein, or, if said defendant(s) are found liable to Plaintiff(s) herein, judgment on defendant(s) FRED WEINGARTEN and GOLAM MORTUJA's cross-claim against NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA and HILTON HOTELS CORPORATION, Co-Defendants herein, together with attorneys fees, costs and disbursements of this action and such other and further relief as this court deems just and proper in the premises.

Dated: Brooklyn, New York
September 25, 2007

Yours, etc.

GERBER & GERBER, PLLC
Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA
26 Court Street, Suite 1405
Brooklyn, New York 11242
718-834-0559



BY: FIDEL F. DEL VALLE, ESQ. (FD 1049)

TO: JON L. NORINSBERG, ESQ.
Attorney for Plaintiff(s)
225 Broadway, Suite 2700
New York, New York 10007
(212) 791-5396

Attorney for Defendant(s) NANA GHOSH, MICHAEL COHEN,
MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA
and HILTON HOTELS CORPORATION, unknown at the present time.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LOUISE ROGERS TATE,

INDEX NO. 07 CV 5885

Plaintiff(s),
-against-

REFUSAL TO ACCEPT
SERVICE BY
FACSIMILE TRANSMISSION

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE,
ARISTISIDIS SHISMEROS, WAI KWOK HA,
GOLAM MORTUJA, FRED WEINGARTEN, and HILTON
HOTELS CORPORATION,

Defendant(s).

-----X

S I R S:

PLEASE TAKE NOTICE, that the undersigned are retained as attorneys for the defendant(s), FRED WEINGARTEN and GOLAM MORTUJA, by attorney FIDEL DELVALLE, ESQ., hereby advises that inclusion upon this office's letterhead of a number for transmission of documents by electronic process ("FAX") is not to be deemed consent to service of litigation paper by such method, any provision of law or statute to the contrary notwithstanding; and

PLEASE TAKE FURTHER NOTICE that service of litigation papers in this or any other action upon the undersigned by "FAX" will not be accepted and is not authorized; except upon written permission given at least twenty-four (24) hours prior to such service.

Dated: Brooklyn, New York
September 25, 2007

Yours, etc.

GERBER & GERBER, PLLC

Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA

26 Court Street, Suite 1405

Brooklyn, New York 11242

718-834-0559

BY: FIDEL DELVALLE, ESQ. (FD 1049)

TO: JON L. NORINSBERG, ESQ.
Attorney for Plaintiff(s)
225 Broadway, Suite 2700
New York, New York 10007
(212) 791-5396

Attorney for Defendant(s) NANA GHOSH, MICHAEL COHEN,
MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA
and HILTON HOTELS CORPORATION, unknown at the present time.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LOUISE ROGERS TATE,

INDEX NO. 07 CV 5885 (PKC)

Plaintiff(s),

DISCOVERY DEMAND

-against-

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE,
ARISTISIDIS SHISMEROS, WAI KWOK HA,
GOLAM MORTUJA, FRED WEINGARTEN, and HILTON
HOTELS CORPORATION,

Defendant(s).

-----X

S I R S:

PLEASE TAKE NOTICE, that under Federal Rule 26(a) you are required,
to serve upon the undersigned a verified bill of particulars as follows:

1. The age of the plaintiff.
2. The address of the plaintiff.
3. State the date and time of the occurrence.
4. State the location of the occurrence.
5. Direction in which the plaintiff's vehicle was proceeding immediately before and at the time of the accident.
6. Direction in which the defendant's vehicle was proceeding immediately before and at the time of the accident.
7. General statement of the acts or omissions constituting the negligence claimed.
8. Set forth a statement of the injuries allegedly sustained, together with a detailed statement and description of any injuries that are claimed to be permanent.
9. State the length of time injuries caused:
 - a. confinement to bed;
 - b. confinement to house;

- c. incapacity from attending to business or employment; Whether or not Plaintiff was employed at the time of accident, a response is demanded and necessary here.
 - d. confinement to a hospital. If plaintiff was confined to a hospital, identify the hospital or hospitals by name and address and set forth the period of confinement.
 - e. length of time Plaintiff(s) claim(s) to have been totally disabled;
 - f. Length of time Plaintiff(s) claim(s) to have been partially disabled;
10. Set forth the total amounts claimed as special damages for:
- a. physicians' services;
 - b. hospital expenses;
 - c. medical supplies;
 - d. x-rays;
 - e. nurses' services;
 - f. Occupation and normal salary and/or income;
 - g. loss of earnings;
 - h. Name and address of employer, even if no lost earnings are claimed; (If self employed, state name and address of person or organization under which claimant receives income.)
 - i. domestic services; and
 - j. any other special damages claimed.
11. Set forth and describe all injuries which plaintiff claim are permanent.
12. Specify the climatic conditions at the time of the occurrence mentioned in the complaint.
13. Set forth a complete and detailed description by plaintiff as to the exact place and manner in which the accident is alleged to have happened.
14. If plaintiff claims to have suffered a loss of earnings, or time lost from work, or inability to perform the work which Plaintiff performed prior to the complained of occurrence, as a result of the occurrence set forth in the complaint, state the nature and character of the business, or duties, that plaintiff claims to have been prevented from attending, the name and address of business and/or employer, as well as the average earnings per day, week or month. If no lost earnings or time lost from work or no inability to perform prior work is claimed, state specifically, for each category for which no claim is being made, "none"
15. State the manner in which plaintiff will claim she sustained a serious injury as defined in Article 51 of the Insurance Law.

16. Identify all statutes, ordinances, rules and regulations which plaintiff will claim was violated by this defendant, giving the title and section number.

Dated: Brooklyn, New York
September 25, 2007

Yours, etc.

GERBER & GERBER, PLLC
Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA
26 Court Street, Suite 1405
Brooklyn, New York 11242
718-834-0559



BY: FIDEL F. DEL VALLE, ESQ. (FD 1049)

TO: JON L. NORINSBERG, ESQ.
Attorney for Plaintiff(s)
225 Broadway, Suite 2700
New York, New York 10007
(212) 791-5396

Attorney for Defendant(s) NANA GHOSH, MICHAEL COHEN,
MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA
and HILTON HOTELS CORPORATION, unknown at the present time.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LOUISE ROGERS TATE,

INDEX NO. 07 CV 5885 (PKC)

Plaintiff(s),

DISCOVERY DEMAND FOR
MEDICALS

-against-

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE,
ARISTISIDIS SHISMEROS, WAI KWOK HA,
GOLAM MORTUJA, FRED WEINGARTEN, and HILTON
HOTELS CORPORATION,

Defendant(s).

-----X

S I R S :

PLEASE TAKE NOTICE, that pursuant to the rules of this Court,
you are required to serve upon and deliver to the undersigned and all
other parties to the action, the following:

1. Copies of the medical reports of those physicians who have previously treated or examined the party seeking recovery, and those doctors who will testify on his behalf. Which testimony will be offered at the trial, referring to and identifying those X-rays and technicians' reports which will be offered at the trial.
2. Duly executed and acknowledged written authorizations permitting all parties to obtain and make copies of all hospital records, and such other records including X-ray and technicians' reports as may be referred to and identified in the statement of the examined party's physicians.

Dated: Brooklyn, New York
September 25, 2007

Yours, etc.

GERBER & GERBER, PLLC

Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA
26 Court Street, Suite 1405
Brooklyn, New York 11242
718-834-0559



BY: FIDEL DELVALLE, ESQ. (FD 1049)

TO: JON L. NORINSBERG, ESQ.
Attorney for Plaintiff(s)
225 Broadway, Suite 2700
New York, New York 10007
(212) 791-5396

Attorney for Defendant(s) NANA GHOSH, MICHAEL COHEN,
MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA
and HILTON HOTELS CORPORATION, unknown at the present time.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LOUISE ROGERS TATE,

INDEX NO. 07 CV 5885

Plaintiff(s),

-against-

COMBINED DISCOVERY
DEMANDS

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE,
ARISTISIDIS SHISMEROS, WAI KWOK HA,
GOLAM MORTUJA, FRED WEINGARTEN, and HILTON
HOTELS CORPORATION,

Defendant(s).

-----X

S I R S:

PLEASE TAKE NOTICE that, pursuant to the rules of this Court, the undersigned hereby makes the following demand that all parties produce at the office of the undersigned within twenty (20) days of the date hereof, for copying, testing, inspecting and photographing, the following items.

1. DEMAND FOR ATTORNEYS

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, that you serve upon him the name(s) and address(es) of all parties who have appeared and all attorneys appearing for any party to this action.

2. DEMAND FOR THE NAMES AND
ADDRESSES OF WITNESSES

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, , that you set forth in writing by any party you represent to be a witness to any of the following:

- (a) The occurrence alleged in the Complaint;
- (b) Any acts or conditions which have been alleged as causing the occurrence alleged in the Complaint;
- (c) Any actual notice given to the defendant or claimed to be given to the defendant as alleged in the Complaint;
- (d) The nature and duration of the conditions which allegedly caused the occurrence alleged in the Complaint;

(e) The names and addresses of any persons having knowledge of the acts, notice or conditions substantiating any affirmative defense asserted (or in future asserted) by you;

(f) If any of the persons names in response to the preceding paragraphs were in the employ of any party herein on the date of the occurrence complained of, set forth the names of each such person and such person(s) employer;

(g) If any such person named in the preceding subparagraph is presently in the employ of any party herein, set forth the name of such person(s) and such person's employer.

If no such witnesses are known to you, so state in the sworn reply to this demand. The undersigned will object upon trial to the testimony of any witnesses not so identified.

3. DEMAND FOR DISCOVERY AND INSPECTION OF ANY STATEMENTS

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, , that you produce any statements, of any party represented by the undersigned, in your possession.

4. DEMAND FOR INSURANCE COVERAGE

PLEASE TAKE FURTHER NOTICE, the undersigned hereby demands that Pursuant to N.Y. CPLR 3101 (f) and Federal Rules 26 and 34 that you produce and permit defendant(s) to inspect and to copy the contents of any insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payment made to satisfy the judgment which may be entered herein, including, but not limited to excess and additional coverage.

5. DEMAND FOR ACCIDENT REPORTS

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, pursuant to Federal Rules 26 and 34, that you produce and allow the defendant(s) to inspect any written report concerning the accident which is the subject matter of this lawsuit prepared person, firm, corporation, association or other public or private entity. This demand includes all accident reports, whether or not prepared exclusively in preparation for litigation. Pataki v. Kiseda, 80 A.D. 2d 100, 437 N.Y.S. 2d 694 (1981).

6. DEMAND FOR PHOTOGRAPHS, VIDEO AND AUDIO RECORDINGS

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, pursuant to CPLR Article 31 and Federal Rule 26 and 34, that you produce any and all photographs, video audio or any other recordings, if any, of the scene of the occurrence and/or (if applicable) the motor vehicles involved in the accident. If no such photographs are in the possession, custody or control of any parties you represent in this action, so state in the sworn reply to this demand.

7. DEMAND FOR EXPERT WITNESS DISCLOSURE

PLEASE TAKE FURTHER NOTICE, Pursuant to Federal Rule 26 , that you are hereby required to set forth the following:

- (a) The name and address of each and every person you expect to call as an expert witness at the trial of this action;
- (b) In reasonable detail, the subject matter on which each expert is expected to testify;
- (c) The substance of the facts and opinions on which each expert is expected to testify;
- (d) The qualification of each expert witness.

8. DEMAND FOR ORAL EXAMINATION

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, pursuant Federal Rule 30, an oral examination of any adverse party(ies) to be taken before a Notary Public with respect to evidence material and necessary in this action, including culpable conduct, liability and damages, to be held on October 29, 2007, in the afternoon at the offices of FIDEL DELVALLE, ESQ., 26 Court Street, Suite 1405, Brooklyn, New York 11242.

PLEASE TAKE FURTHER NOTICE, that these demands shall be deemed to continue during the pendency of this action, including the trial thereof. In the event of your failure or refusal to comply with these demands, these answering parties information and to preclude any testimony with regard to any demands not complied with.

Dated: Brooklyn, New York
September 25, 2007

Yours, etc.

GERBER & GERBER, PLLC
Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA
26 Court Street, Suite 1405
Brooklyn, New York 11242



By Fidel F. Del Valle, Esq. (FD1049)

TO: JON L. NORINSBERG, ESQ.
Attorney for Plaintiff(s)
225 Broadway, Suite 2700
New York, New York 10007
(212) 791-5396

Attorney for Defendant(s) NANA GHOSH, MICHAEL COHEN,
MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA
and HILTON HOTELS CORPORATION, unknown at the present time.

INDEX NO. 07 CV 5885 (PKC)
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LOUISE ROGERS TATE,

Plaintiff(s),

-against-

NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK
HA, GOLAM MORTUJA, FRED WEINGARTEN, and HILTON HOTELS CORPORATION,
Defendant(s).

NOTICE OF APPEARANCE, ANSWER, CROSSCLAIM & DEMANDS

Yours, etc.

GERBER & GERBER, PLLC

Attorneys for Defendant, FRED WEINGARTEN and GOLAM MORTUJA

26 Court Street, Suite 1405

Brooklyn, New York 11242

718-834-0559

BY: FIDEL F. DEL VALLE, ESQ.

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STATE OF NEW YORK, COUNTY OF KINGS: ss.:

FIDEL F. DEL VALLE, ESQ., an attorney admitted to the practice of law before the various Courts of the State of New York and the United States District Court for the Southern District of New York, hereby affirms, pursuant to the C.P.L.R., under penalty of perjury, the following to be true:

On September 25, 2007, affirmant served the within NOTICE OF APPEARANCE ANSWER, CROSSCLAIM & DEMANDS on: JON L. NORINSBERG, ESQ., Plaintiff(s)' attorneys, at 225 Broadway, Suite 2700, New York, NY 10007, Attorney for Co-Defendants NANA GHOSH, MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA and HILTON HOTELS CORPORATION, at the address designated by said attorneys for the service of pleadings and papers purpose by depositing a true copy of same, enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Dated: Brooklyn, New York
September 28, 2007


FIDEL F. DEL VALLE, ESQ. (FD1049)

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ATTORNEY'S VERIFICATION

STATE OF NEW YORK, COUNTY OF KINGS: ss.:

The undersigned, an attorney admitted to practice in the Courts of New York State, and the United States District Court for the Southern District of New York, hereby affirms, subject to the penalties of perjury: Affirmant is associated with Gerber & Gerber, PLLC, the attorneys of record for FRED WEINGARTEN and GOLAM MORTUJA, named defendant(s), in the within action; Affirmant has read the foregoing NOTICE OF APPEARANCE VERIFIED ANSWER, DEFENSES, & CROSSCLAIM and knows the contents thereof; same is true to affirmant's own knowledge, except as to the matters therein alleged on information and belief, and that as to those matters alleged on information and belief, affirmant believes them to be true. Affirmant further says that the reason this verification is made by affirmant and not by defendant is because the said defendant does not reside in the county wherein counsel has his office, to wit, the COUNTY OF KINGS, New York. The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are as follows: Based upon the contents of our file.

Dated: Brooklyn, New York
September 28, 2007


FIDEL F. DEL VALLE, ESQ. (FD1049)